

House File 659

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AN ACT

RELATING TO OWNERSHIP OF ALTERNATE ENERGY PRODUCTION FACILITIES
BY PUBLIC UTILITIES, MAKING RELATED CHANGES, AND PROVIDING
AN EFFECTIVE DATE.

1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 9

1 10 Section 1. Section 476.23, subsection 1, Code 2003, is
1 11 amended to read as follows:

1 12 1. An electric utility shall not construct or extend
1 13 facilities or furnish or offer to furnish electric service to
1 14 the existing point of delivery of any customer already
1 15 receiving electric service from another electric utility
1 16 without having first filed with the board the express written
1 17 agreement of the electric utility presently serving this
1 18 customer, except as otherwise provided in this section. Any
1 19 municipal corporation, after being authorized by a vote of the
1 20 people, or any electric utility may file a petition with the
1 21 board requesting a certificate of authority to furnish
1 22 electric service to the existing point of delivery of any
1 23 customer already receiving electric service from another
1 24 electric utility. If, after notice by the board to the
1 25 electric utility currently serving the customer, objection to
1 26 the petition is not filed and investigation is not deemed
1 27 necessary, the board shall issue a certificate within thirty
1 28 days of the filing of the petition. When an objection is
1 29 filed, if the board, after notice and opportunity for hearing,
1 30 determines that service to the customer by the petitioner is
1 31 in the public interest, including consideration of any
1 32 unnecessary duplication of facilities, it shall grant this
1 33 certificate in whole or in part, upon such terms, conditions,
1 34 and restrictions as may be justified. Whether or not an
1 35 objection is filed, any certificate issued shall require that
2 1 the petitioner pay to the electric utility presently serving
2 2 the customer, the reasonable price for facilities serving the
2 3 customer. This price determination by the board shall include
2 4 due consideration of the cost of the facilities being
2 5 acquired; ~~any~~ necessary generating capacity and transmission
2 6 capacity dedicated to the customer, including, but not limited
2 7 to, electric power generating facilities and alternate energy
2 8 production facilities not yet in service but for which the
2 9 board has issued an order pursuant to section 476.53, and
2 10 electric power generating facility emissions plan budgets
2 11 approved by the board pursuant to section 476.6, subsection
2 12 25; depreciation; loss of revenue; and the cost of
2 13 facilities necessary to reintegrate the system of the utility
2 14 after detaching the portion sold.

2 15 Sec. 2. Section 476.43, subsection 1, Code 2003, is
2 16 amended to read as follows:

2 17 1. Subject to section 476.44, the board shall require
2 18 electric utilities ~~to enter into long-term contracts~~ to do
2 19 ~~both of the following under terms and conditions that the~~
2 20 ~~board finds are just and economically reasonable for the~~
2 21 electric utilities' customers, are nondiscriminatory to
2 22 alternate energy producers and small hydro producers, and will
2 23 further the policy stated in section 476.41:

2 24 a. ~~Purchase~~ At least one of the following:

2 25 (1) Own alternate energy production facilities or small
2 26 hydro facilities located in this state.

2 27 (2) Enter into long-term contracts to purchase or wheel
2 28 electricity from alternate energy production facilities or
2 29 small hydro facilities located in the utility's service area
2 30 under the terms and conditions that the board finds are just
2 31 and economically reasonable to the electric utilities'
2 32 ratepayers, are nondiscriminatory to alternate energy
2 33 producers and small hydro producers and will further the
2 34 policy stated in section 476.41.

2 35 b. Provide for the availability of supplemental or backup
3 1 power to alternate energy production facilities or small hydro
3 2 facilities on a nondiscriminatory basis and at just and
3 3 reasonable rates.

3 4 Sec. 3. Section 476.44, subsection 2, Code 2003, is
3 5 amended to read as follows:

3 6 2. An electric utility subject to this division, except a
3 7 utility ~~which that~~ elects rate regulation pursuant to section
3 8 476.1A, shall not be required to own or purchase, at any one
3 9 time, more than its share of one hundred five megawatts of
3 10 power from alternative energy production facilities or small
3 11 hydro facilities at the rates established pursuant to section
3 12 476.43. The board shall allocate the one hundred five
3 13 megawatts based upon each utility's percentage of the total
3 14 Iowa retail peak demand, for the year beginning January 1,
3 15 1990, of all utilities subject to this section. If a utility
3 16 undergoes reorganization as defined in section 476.76, the
3 17 board shall combine the allocated purchases of power for each
3 18 utility involved in the reorganization.

3 19 Notwithstanding the one hundred five megawatt maximum, the
3 20 board may increase the amount of power that a utility is
3 21 required to own or purchase at the rates established pursuant
3 22 to section 476.43 if the board finds that a utility, including
3 23 a reorganized utility, exceeds its 1990 Iowa retail peak
3 24 demand by twenty percent and the additional power the utility
3 25 is required to purchase will encourage the development of
3 26 alternate energy production facilities and small hydro
3 27 facilities. The increase shall not exceed the utility's
3 28 increase in peak demand multiplied by the ratio of the
3 29 utility's share of the one hundred five megawatt maximum to
3 30 its 1990 Iowa retail peak demand.

3 31 Sec. 4. Section 476.45, Code 2003, is amended to read as
3 32 follows:

3 33 476.45 EXEMPTION FROM EXCESS CAPACITY.

3 34 Capacity ~~purchased from of~~ an alternate energy production
3 35 facility or small hydro facility, ~~that is owned or purchased~~
4 1 ~~by an electric utility,~~ shall not be included in a calculation
4 2 of an electric utility's excess generating capacity for ~~rate-~~
4 3 ~~making ratemaking~~ purposes.

4 4 Sec. 5. Section 476.53, subsection 3, paragraph b, Code
4 5 2003, is amended to read as follows:

4 6 b. In determining the applicable ratemaking principles,
4 7 the board shall not be limited to traditional ratemaking
4 8 principles or traditional cost recovery mechanisms. Among the
4 9 principles and mechanisms the board may consider, the board
4 10 has the authority to approve ratemaking principles proposed by
4 11 a rate-regulated public utility that provide for reasonable
4 12 restrictions upon the ability of the public utility to seek a
4 13 general increase in electric rates under section 476.6 for at
4 14 least three years after the generation facility begins
4 15 providing service to Iowa customers.

4 16 Sec. 6. EFFECTIVE DATE. This Act, being deemed of
4 17 immediate importance, takes effect upon enactment.

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4 21 _____
4 22 CHRISTOPHER C. RANTS
4 23 Speaker of the House

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4 26 _____
4 27 MARY E. KRAMER
4 28 President of the Senate

4 29 I hereby certify that this bill originated in the House and
4 30 is known as House File 659, Eightieth General Assembly.

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4 34 _____
4 35 MARGARET THOMSON
Chief Clerk of the House

5 1 Approved _____, 2003

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5 5 _____
5 6 THOMAS J. VILSACK
Governor